PURPOSE

Discover Your Legislature Series

Legislative Assembly of
British Columbia
Victoria
British Columbia
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GOVERNANCE

CONSTITUTIONAL FRAMEWORK

In order to understand the purpose of the Legislative Assembly of British Columbia, a historical context of Canada's constitution and governance is required.

What is a constitution? Why is it important? Click on the links below to explore our nation's constitution, Confederation and how B.C. fits in.

The constitution of a country or province consists of the basic rules and principles of how that country or province is governed and how legislative, executive and judicial bodies relate to each other and to the people. Constitutions have two parts, often referred to as the written and the unwritten parts.

Some constitutions have almost all of the important provisions set out in one basic written document. The United States of America and India are two of many countries that have such written constitutions. At the other extreme are a few countries that have no such document. Britain is the best-known example. It is said to have an unwritten constitution. Its constitution consists of well-understood principles, or "conventions." Many of these conventions are embodied in statutes or result from court decisions, but there are extremely important aspects of the British constitution that have no formal written basis.

July 1, 1867

The motto on the Canadian coat of arms is *a mari usque ad mare*, a Latin phrase meaning "from sea to sea." Yet at the time of Confederation in 1867, only three provinces of British North America — the province of Canada, which became the two provinces of Ontario and Quebec after Confederation; New Brunswick; and Nova Scotia — comprised the new Dominion of Canada.

British North America Act, 1867

The *British North America (BNA) Act, 1867*, was the British statute that created Canada and provided it with its basic constitutional functions. It formally united the colonies entering Confederation, and it established federalism, setting out the distribution of powers between the federal Parliament and the provincial legislatures. The *British North America Act, 1867*, also provided the framework for the admission of all other British North American colonies and territories into the Dominion.

In contrast to the authors of the American constitution, Canada's Fathers of Confederation never contemplated independence from Britain. In fact, as a British statute, the *British North America Act, 1867* could only be changed by the British Parliament.

Great Britain was active in its support of Canadian Confederation. Following two invasions by the Americans of the province of Canada in 1775 and 1812, Great Britain grew increasingly concerned about the cost and effectiveness of Canadian military preparedness. Canada's vulnerability and unwillingness to increase taxes for her own self-defence led Britain to conclude that British North America should unite to defend itself against American interests.

Entry of Other Provinces

The *British North America Act, 1867* also provided for the entry of other colonies into the Dominion of Canada. In 1870 part of the territory of Rupert's Land and the North Western Territory became Canada's fifth province, Manitoba. British Columbia's entry into Confederation in 1871 was followed by Prince Edward Island in 1873, Alberta and Saskatchewan in 1905 and Newfoundland in 1949.

B.C. Joins Confederation

By an order-in-council of the United Kingdom, B.C. joined Confederation in 1871, thanks to two main developments. First, there was Canada's 1869 purchase from the Hudson's Bay Company of the 390-million-hectare lands known as the Northwest Territories, which lay between B.C. and the Dominion (at what seems now the bargain-basement price of 1 cent for every three hectares). With Canada gaining control of that land came the second development: the agreement that a railway be started within two years to link B.C. and the Northwest Territories to the rest of Canada. The promise of a railroad, together with other concessions, was sufficient to tempt the British colony of British Columbia into Confederation.

The Evolution of the Canadian Constitution

Since the *BNA Act, 1867,* was a British statute, the Parliament of Canada had to ask the Parliament of the United Kingdom to make any amendments Canada wanted. This was frustrating and embarrassing for Canada and time-consuming for the British Parliament, which quickly became quite eager to give up this responsibility. In fact, the *1931 Statute of Westminster* legally recognized that the British Parliament could not act to alter the *British North America Act, 1867,* or subsequent constitutional amendments without the request of the Parliament of Canada.

However, it was another 50 years before the Parliament of Canada secured the responsibility of directly amending our own constitution, largely because Canada's federal and provincial politicians couldn't agree on what the amending formula would be once the constitution was here and needed to be changed.

Finally, in 1982 the *BNA Act, 1867,* and 30 other documents, including British legislation and British orders-in-council that had amended our constitution, were entrenched and largely renamed. It was at this time that the *BNA Act, 1867,* was renamed the *Constitution Act, 1867.*

Today's Constitution

The *Canada Act, 1982,* and the *Constitution Act, 1982*

The British Parliament passed the *Canada Act, 1982,* and, as a Schedule to that Act, the *Constitution Act, 1982,* in March 1982. Although the *Canada Act, 1982,* came into force upon Royal Assent on March 29, the *Constitution Act, 1982,* did not come into force until Queen Elizabeth II made her historic trip to Ottawa to sign a proclamation on April 17, 1982.

The *Canada Act, 1982,* essentially declares that Great Britain no longer legislates for Canada.

This total of thirty-one documents was designated as the Constitution of Canada. This meant they were "entrenched" which means they could only be changed by the amendment formula outlined in the *Constitution Act, 1982.* The thirty-one documents include nineteen United Kingdom statutes, four United Kingdom orders-in-council and eight Canadian statutes. The United Kingdom documents, namely the nineteen statutes, are still statutes of the British Parliament, and the four British orders-in-council are still orders-in-council of the British Privy Council. They have been "patriated" only in the sense they are British documents that can now only be amended or repealed by a Canadian amending process.

The *Constitution Act, 1982,* contains key constitutional provisions. Included within it is the Canadian Charter of Rights and Freedoms that sets out and guarantees the fundamental freedoms, democratic rights, mobility rights, legal rights, equality rights and official languages of Canada.

The *Constitution Act, 1982,* recognized Aboriginal rights, entrenched equalization in federal grants to provinces, set out an amending process and made changes in relation to jurisdiction over natural resources.

Back in 1982 Quebec was the only province that wouldn't sign the constitutional accord to adopt the *Canada Act, 1982.* The years since have been spent in various federal-provincial discussions to work on overall constitutional reform.

B.C. in Confederation

While B.C. joined Confederation on July 20, 1871, the first Premier was not chosen until after the first general election, in October of that year. (The new provincial Legislative Assembly did not meet for the first time until February 1872.) In the interim, a temporary Cabinet was chosen, and the Lieutenant-Governor — the provincial counterpart of the Governor General and the Crown's representative in B.C. — acted as the head of government.

Our provincial *Constitution Act*, R.S.B.C. 1996, c. 66, sets out some basic laws with respect to our provincial institutions, including provisions for the organization of executive government and operation of the Legislative Assembly. British Columbia may revise any aspect of its provincial constitution but is prohibited by the *Constitution Act, 1982*, from altering the role or function of the Lieutenant-Governor. In British Columbia our constitutional provisions are defined by a variety of statutes — for example, our own provincial *Constitution Act*, R.S.B.C. 1996, c. 66; the *Election Act*, R.S.B.C. 1996, c. 106; the *Supreme Court Act*, R.S.B.C. 1996, c. 443; and the *Legislative Assembly Privilege Act*, R.S.B.C. 1996, c. 259.

FEDERAL-PROVINCIAL JURISDICTION

The *Constitution Act, 1867,* provides for the division of powers between the federal Parliament and the provincial legislatures. In general, the federal parliament has authority over policies and activities that affect all of Canada, such as banking, criminal law, national defence and citizenship. Provincial and territorial legislatures look after such activities as education, health care, social welfare and highways, and they pass laws that affect only the people of their province or territory.

There is some overlap, known as areas of concurrent jurisdiction. In certain areas, such as taxation, agriculture, old age pensions, natural resources and immigration, both levels of government can pass laws, though usually if there's a conflict, the federal law prevails.

Both federal and provincial powers have grown as a result of a century and a half of natural evolution. For example, back in 1867, the drafters of the *British North America Act, 1867,* could not have anticipated the need for regulation over areas such as air transportation, water pollution or the Internet. It's been left to "judicial interpretation": the courts decide what areas should be controlled by the federal Parliament and what the provinces should control. Judicial interpretation and, to a lesser degree, constitutional amendments have influenced the role of federalism and the federal control of programs such as employment insurance and pensions.

ELECTION PROCESS

Electoral System

Our electoral system is based on the principle of representation by population. The province is divided into a number of electoral districts or constituencies, and the voters in each constituency elect one person to represent them in the Legislative Assembly.

In B.C.'s first parliament, back in 1872, there were 25 Members of the Legislative Assembly, or MLAs. The current, 37th parliament has 79 MLAs. The number of MLAs and the boundaries of the constituencies they represent may be adjusted every ten years as B.C.'s population grows and new heavily populated areas are developed. Independent electoral boundary commissions are appointed to recommend new boundaries to the Legislative Assembly. On average in B.C. each MLA represents a little more than 47,000 people.

Becoming a Candidate

Any Canadian citizen who is 18 years of age or older on election day and has lived in B.C. for at least six months may be nominated as a candidate for election as an MLA.

Typically, candidates have also been actively involved in their constituency and have already been through a political party nomination process in accordance with their own party's constitution and the *Election Act*, R.S.B.C. 1996, c. 106.

Candidates can run either as the official candidate of a registered political party or as an independent. Becoming a candidate requires submitting a nomination form signed by at least 25 voters in the constituency. Candidates can live in one constituency and run for election in another.

B.C. Elections

The *Constitution Act, 1982,* provides that the federal House of Commons and provincial legislatures cannot meet for a period of more than five years without an election. This act and our provincial *Constitution Act* require that they must also meet at least once per year.

B.C.'s 8th parliament was the shortest on record, lasting from January 5, 1899, to April 10, 1900. The longest was the 36th, which lasted from June 25, 1996, to April 11, 2001.

Traditionally in the Westminster model, elections are held whenever the Prime Minister or Premier considers it appropriate. It is for this reason that the duration of provincial parliaments has varied so much in British Columbia. This traditional approach to elections has changed in B.C. No longer are

election dates set at the discretion of the Premier and government. The Legislative Assembly in 2001 passed the *Constitution (Fixed Election Dates) Amendment Act, 2001,* S.B.C. 2001 c. 36 so that our province has fixed election dates every four years. The Premier must still formally ask the Lieutenant-Governor to dissolve the provincial parliament before the 28-day election campaign can begin. An election may also be called if the government loses a vote of confidence in the Legislative Assembly.

The other kind of election is a by-election, which is held only in constituencies where the seat has become vacant through resignation, retirement or death of the incumbent (sitting MLA).

The Party System

Prior to the 1900s, men (and in those days, it was just men) ran for office essentially as independents. There were no formal provincial political parties operating in B.C. at that time. During this period, "group government" was practised. That is, loose alliances of MLAs formed around various leaders.

That all changed in the 1903 election campaign. Most of the successful candidates ran under the banner of one of the two federal parties, the Conservatives and the Liberals, though both the Labour Party and the Socialist Party of B.C. elected at least one MLA.

Since then, political parties have dominated every election campaign, and every government has been a party government, although during the 1940s the two previously successful Conservative and Liberal Parties came together in a coalition government. Since that time, the political parties that have been dominant include the B.C. Social Credit Party, the New Democratic Party of B.C. and the Liberal Party of B.C. During the general election of 2001 there were 33 registered political parties in B.C.

Election Bites

- In the 1871 election there were 3,804 votes cast for a total of 46 candidates. In 2001 there were 1,599,765 votes for 456 candidates.
- In a 1918 Vancouver by-election, Mary Ellen Smith became the first woman to run and be elected in B.C. It was also the first time women voted in any provincial election in Canada.
- Prior to 1929 all elected candidates were required to immediately resign their seat and run in a by-election if they were appointed to Cabinet.
- Prior to 1940 in B.C. candidates could run in more than one constituency. A number of people took advantage of that, including six Premiers. Those who were elected in more than one constituency were required to relinquish one of the seats. It was the MLA-elect's choice as to which constituency he or she would prefer to represent.

- Prior to 1991 some constituencies in urban centres were represented by two MLAs, but since that time, all constituencies have been represented by a single member. In the 1991 general election the number of constituencies increased from 52 to 75, each represented by only one MLA.

ABOUT THE LEGISLATIVE ASSEMBLY

WHAT IS IT? – DEFINITION

The Legislature of British Columbia is composed of the Lieutenant-Governor and the 79 elected Members of the Legislative Assembly, also known as MLAs. The composition of the Legislative Assembly reflects the diversity of British Columbia. Female and male members from a diversity of ethnic groups hold seats in the present House.

Together, members of the governing party, members of the opposition and independent members make up the B.C. Legislative Assembly. The three functions of the Legislative Assembly are:

1. make laws
2. approve finances
3. scrutinize government

B.C.'s Legislative Assembly

Canada, including all its provinces and territories, is a constitutional monarchy. According to the constitution, the Queen is the head of state for Canada, and the Governor General and Lieutenant-Governors are her representatives nationally and provincially, respectively.

In practice, the Governor General and Lieutenant-Governors usually act and speak in accordance with the advice given them by the President of the Executive Council, also known as the Premier, much as the Queen acts in accordance with the advice given to her by the British Prime Minister.

Overall, B.C.'s Legislative Assembly operates on the same principles of representative and responsible government, as does the British parliamentary system. This means that the members of the Cabinet are accountable to the Legislative Assembly. Each constituency in B.C. elects one Member of the Legislative Assembly to represent them. Together, MLAs from the governing and opposition parties and independent members make up the B.C. Legislative Assembly.

Historically, prior to the introduction of the party system, the Lieutenant-Governor would call upon the leader who appeared to be able to gain and maintain the confidence of the largest number of Members of the Legislative Assembly to form a government. Governments and Premiers changed often. Indeed, the province had almost as many Premiers before 1903 as it has had since. With today's political party system, the Lieutenant-Governor usually calls upon the leader of the party with the most Members of the Legislative Assembly to form government. The leader of that party becomes the Premier, and on his or her advice, the Lieutenant-Governor will appoint a Cabinet.

WESTMINSTER TRADITION

B.C.'s system of government is based on Great Britain's and has a long and honourable history dating back nearly 800 years. This is often referred to as the "Westminster tradition."

Westminster is home to the British Parliament, though its impact is felt right across Canada. The preamble of the *Constitution Act, 1867*, provides that our country shall have a constitution similar in principle to that of the United Kingdom. Consequently, the initial provinces in Confederation based their legislatures solely on the Westminster Parliament. In B.C., as with other provinces that joined after 1867, Westminster remained the theoretical model.

The Westminster influence is still felt around the globe. Many nations that were formerly part of the British Empire, which later became the Commonwealth of Nations, also adopted the Westminster model.

Originating as a Crown colony of Great Britain, British Columbia has modelled its parliamentary practice on the Westminster system and has adopted a number of its practices. As well, B.C. has developed its own usages, customs and precedents.

Parliamentary procedure is governed by both a common-law tradition and by written laws. The common law of all parliaments includes the rulings of the Speaker, historical custom and parliamentary convention. In B.C. these have been taken from precedents in our own Legislative Assembly, from Westminster and from other jurisdictions that follow the Westminster model.

Standing Orders are the written rules governing the proceedings of parliament. Standing Orders expressly for B.C. were first created in 1930. They, too, rely on the precedent of the Westminster Parliament. In the words of Standing Order 1: "In all cases not provided for hereafter or by sessional or other orders, the usages, customs and precedents, firstly, of this House and, secondly, of the House of Commons of

the United Kingdom of Great Britain and Northern Ireland shall be followed as far as they may be applicable to this House." However, this has not prevented B.C. from adopting practices from other parliaments that are also based on the Westminster model.

THE BRANCHES OF GOVERNMENT

In our system of parliamentary democracy there are three branches that guide our province's development: the executive, legislative and judicial branches. In contrast to the United States, where the founding fathers kept the three branches separate and able to put checks on each other, the executive and legislative branches are intertwined at the federal and provincial levels. For example, the executive branch is led primarily by the Members of the Legislative Assembly appointed to Cabinet. The Cabinet, in turn, is responsible to the legislative branch (all MLAs) and must continue to have the support of the majority of members. However, the judicial branch enjoys independence from executive and legislative control.

In our constitutional monarchy the Queen or her representative, the Lieutenant-Governor, has an important symbolic role in each of the three branches. For example, in the judicial branch, it is the Crown that conducts criminal prosecutions and stands for the province in civil cases, while the Lieutenant-Governor is part of both the executive and legislative branches.

Here's how each of the three branches work:

Executive Branch

The four main responsibilities of the executive branch of government are:

- developing policies to deal with the issues facing the province
- preparing legislation to be presented to the Legislative Assembly
- submitting government spending requirements to the Legislative Assembly for approval
- making sure the policies and laws of the province are carried out

In British Columbia, the Lieutenant-Governor, the Premier and Cabinet and the public service each play a role in the executive branch of government. While these three institutions form the executive branch, they may also be seen in another way, forming the formal, political and permanent elements of the executive branch of government.

Lieutenant-Governor:

The *formal* executive branch is composed of the Queen, who is the legal head of state of Canada, and her federal and provincial representatives, who fulfill her daily duties in Canada. Provincially, the Lieutenant-Governor represents the Queen in British Columbia.

Formally stated, executive government in British Columbia is vested in the Lieutenant-Governor acting by and with the "advice" of the Premier. In practice, the Lieutenant-Governor usually acts on the advice of the Premier, although there are occasions when the Lieutenant-Governor may refuse to act on this advice. For example, a federal constitutional crisis occurred in 1926 when Governor General Lord Byng refused Prime Minister Mackenzie King's request to dissolve the federal Parliament to call for a general election.

Premier and Cabinet:

Usually the leader of the party with the most elected MLAs becomes Premier (or head of the provincial government) and recommends to the Lieutenant-Governor that certain MLAs be appointed as cabinet ministers. This group, composed of the Premier and Cabinet, is described as the province's political executive.

Although the Premier is the day-to-day head of the provincial government, he or she receives the authority to govern from the Crown (upon invitation from the Lieutenant-Governor to form a government). Interestingly, the position of the Premier is not described in detail in the *Constitution Act,* R.S.B.C. 1996, c. 66. In practical terms, the position's power and authority largely depend on his or her relationship with other Members of the Legislative Assembly, with his or her political party and with the public in general.

The responsibilities of the Premier usually include:

- serving as the President of the Executive Council and head of the provincial Cabinet. The Executive Council is the formal name of the Cabinet when it is acting in its legal capacity.
- serving as the head of the provincial government
- leading the development and implementation of government policies and priorities
- serving as the senior communicator of government priorities and plans between:
    - the Lieutenant-Governor and Cabinet
    - the British Columbia government and other provincial and territorial governments
    - the British Columbia government and the federal government and international governments

- providing advice to the Lieutenant-Governor on the exercise of the Queen's and the Lieutenant-Governor's powers and functions in respect of the Province of British Columbia, such as recommending to the Lieutenant-Governor the appointment of cabinet ministers and allocating ministerial portfolios
- serving as leader of a major political party and its caucus of MLAs and representing his or her constituency in the Legislative Assembly

Cabinet appointees are designated ministers in charge of government ministries. The appointment of an MLA to Cabinet is based on his or her ability and expertise and is also influenced by political considerations such as geography, gender and ethnicity.

When the Premier and the cabinet ministers are acting in a formal legal capacity to execute their executive powers, they are known as the Executive Council. In fact, the "Cabinet" is an informal body with no legal or constitutional basis, but the "Executive Council" is the legal agency through which ministers collectively, as the Lieutenant-Governor-in-Council, exercise powers.

In British Columbia the Executive Council is composed of the Cabinet. Cabinet ministers are responsible to the Legislative Assembly, which means they must be answerable to the House for their actions and plans. This accountability provision is known as "responsible government."

A cabinet minister remains in office solely at the pleasure of the Premier. The resignation of the Premier dissolves the Cabinet, but does not involve the resignation of the Executive Council as a whole or individual cabinet ministers.

Public service

The public service, acting under the authority of the Crown and a cabinet minister, make up the permanent element of the executive branch. These are the impartial employees who are responsible for carrying out the day-to-day activities of government and for delivering public services.

Legislative Branch

The legislative branch is made up entirely of the Legislative Assembly — the MLAs elected by the people of British Columbia.

The principal function of the legislative branch is to serve as a public forum for free discussions of important social, political and economic issues. It is a medium through which the public expresses itself th ough its elected representation. It is a people's forum and represents a true cross-section of the people.

It is indispensable, as it is a body to which the executive branch turns for justification and approval. The legislative branch focuses the executive branch's attention on the public opinion and holds the executive branch accountable for their actions by supporting or criticizing government initiatives and exposing shortcomings.

MLAs represent the interests of their constituents by participating in debate and expressing their own views and those of their constituents in the legislative process of making laws, in the process of approving proposed government expenditures and in the process of scrutinizing government activity. The MLAs serve a number of functions, but the major ones are:

- representing their constituents
- debating and passing the laws introduced by Cabinet
- scrutinizing and approving the budgets of each ministry
- holding the Cabinet accountable for their actions and, in the case of MLAs in opposition parties, acting as watchdogs, keeping an eye on the government and the public service

Judicial Branch

Under the Canadian constitution, both the federal government and the provinces are responsible for the administration of justice. In B.C. there are three levels in the justice system: the Provincial Court, the Supreme Court of British Columbia and the British Columbia Court of Appeal. The Supreme Court of British Columbia was the highest court in the province until 1909, when the Court of Appeal was created. The Lieutenant-Governor-in-Council appoints judges to provincial courts, while the federal Governor General appoints judges to the Supreme Court of British Columbia and the British Columbia Court of Appeal.

Other courts that play a role in the lives of British Columbians are the Supreme Court of Canada, the Federal Court of Canada and the Tax Court of Canada.

The courts play two significant roles:

1. Interpreting laws. The laws of British Columbia are introduced and approved by the legislative branch of government. The role of the judicial branch is to interpret the law, settle questions about specific legal issues and hear cases to determine questions of innocence, guilt or liability, all in the course of deciding disputes.

2. Enforcing the principle of the rule of law. In our democracy, the courts help make sure that government action is based on legal and constitutional authority, a fundamental principle under the Canadian Charter of Rights and Freedoms.

WHAT IS ITS ROLE?

Make Laws

The primary function of the Legislative Assembly is to legislate — that is, to make laws. When the House is sitting, MLAs are responsible for studying and debating bills put before them. It is their job to explore all arguments for and against each bill and to consider the views and concerns of British Columbians before deciding to support or reject the bill. If the bill passes through the three reading stages, upon receiving Royal Assent, it is known as an act or statute of the Legislative Assembly.

The Legislative Assembly does not, however, actually write the bills. Bills are prepared and written outside the House, generally by the government ministry proposing them.

Bills – Origin and Types

Types of Bills

Before a law is approved, it is called a bill. Bills fall into two categories: public bills and private bills.

Public Bills

A public bill applies to the entire province. The law that that determines the requirements when someone can drive a car in British Columbia for example, started as a public bill.

Any MLA may propose a new law, in the form of a bill. Most public bills are introduced by a cabinet minister, including all tax-related bills. An example is Bill 2, the *Taxation Statutes Amendment Act, 2001* S.B.C. 2001, c. 34. (www.legis.gov.bc.ca/37th2nd/1st_read/gov02-1.htm) introduced by the Minister of Finance. Any government bill that requires spending public money (tax dollars) or imposing a new tax must, by law, be accompanied by a recommendation or "message" from the Lieutenant-Governor and be introduced by a cabinet minister. However, the practice in B.C. is that all government bills are accompanied by a message from the Lieutenant-Governor. This requirement dates back hundreds of years, to a time when only the King or Queen could raise funds for public projects. Although this practice is by convention in Great Britain, it is a legal requirement by statute in Canada.

A public bill introduced by an MLA who is not a cabinet minister is known as a public bill in the hands of a private member. These types of bills must not require spending of public money and are not accompanied by a message from the Lieutenant-Governor. An example of a public bill in the hands of a private member is Bill M201, *An Act to Restore Transportation Services in Greater Vancouver.* (www.legis.gov.bc.ca/37th2nd/1st_read/mem201-1.htm).

Private Bills

A bill introduced by an MLA on behalf of a person or group outside the Legislative Assembly is called a private bill. Private bills generally deal with a specific issue affecting that person or group. One example of a private bill passed by the Legislative Assembly is Bill Pr403, *The Bank of Nova Scotia Trust Company Act, 2001*, S.B.C. 2001 c. 50. (www.legis.gov.bc.ca/37th2nd/1st_read/pr403-1.htm)

How Bills Are Passed

Readings

All bills must pass through three "readings" as well as an in depth study by the Committee of the Whole House before becoming law.

Except in urgent cases, these stages typically occur on different days, to make sure that MLAs and members of the public alike have the time and opportunity to examine each bill and suggest changes or improvements.

First Reading:

At the first reading the MLA sponsoring the bill introduces the proposed law and explains its purpose. MLAs do not discuss the bill's merits at this point but simply vote on whether to accept it for future debate. If the vote is approved, which it typically is at this stage, it will proceed to second reading on another day. This usually occurs a few days later, in order to give MLAs time to study the bill.

Second Reading:

During second reading MLAs debate the bill's general principles and goals but do not yet discuss specific sections. If a bill is complex or contentious, second reading may last several days.

Once the debate on second reading is over, MLAs vote on whether the bill will proceed to the next step. An affirmative vote is generally considered as approval of the principle of the bill. A second motion is then made to refer the bill to the Committee of the Whole House for detailed examination on a subsequent

day. Some MLAs may vote in favour of sending it forward even though they do not entirely agree with its contents. They know that at the next stage, Committee of the Whole House, they will be able to propose changes (known as amendments).

Committee of the Whole House:

All MLAs are members of the Committee of the Whole House, responsible for examining each section of the bill. The committee may ask the bill's sponsor detailed questions about each section's meaning and purpose and may also propose amendments to sections of the bill. Depending on the bill, the committee stage may last anywhere from a few hours to several days or weeks.

When the committee has finished its debate and has proposed amendments, if any, the members will vote to "report" the bill back to the House. Once this happens, no further changes can be made to the bill unless the House votes to send the bill back to the committee for a second review. This is very rare.

Third Reading:

During third reading, MLAs may choose once again to debate the bill before a final vote. If the bill passes third reading, the Speaker will declare it an act.

Royal Assent

The Lieutenant-Governor will come to the Chamber to give the new act Royal Assent (the Queen's official approval), and what started as a bill is now a law of the Province of British Columbia and is printed as a statute.

Proclamation

Most acts come into force at midnight on the day of Royal Assent. Others, however, will contain a special proclamation section that provides that the act will come into force when proclaimed in force by the Lieutenant-Governor-in-Council.

Approve Finances – Granting Supply

It is also the job of MLAs to examine the activities of cabinet ministers and their ministries, to consider taxation measures and to debate and vote on "estimates," the money requested by government ministries each spring to fund programs and pay staff for the coming year. This is called granting supply.

Every financial appropriation approved by the Legislative Assembly is passed in the form of legislation known as a supply bill. Once the Legislative Assembly has debated and voted upon all government financial requests, the House will usually approve a final supply bill. The passing of this legislation

indicates that the Members of the Legislative Assembly have authorized the government to withdraw from the Consolidated Revenue Fund amounts up to but not exceeding those approved by the Legislative Assembly.

The government's financial year runs from April 1 to March 31 of each year. The cycle starts in mid-February, with the tabling of the government's spending estimates, followed by the Finance minister's presentation of the budget speech on the same day.

The Budget

On budget day, the Minister of Finance rises in the Legislative Assembly and tables a copy of the Main Estimates document, thus making it public, and refers the estimates to the Committee of Supply for consideration and approval. The estimates are a detailed outline of the government's financial requirements and expenditure plan for the coming fiscal year. After tabling the Main Estimates document, the Minister of Finance presents the budget speech, which is an outline of government financial policy and an analysis of its financial situation and anticipated revenues. The date of the budget speech was fixed by statutory provision in the *Budget Transparency and Accountability Act,* S.B.C. 2001 c. 23, at the third Tuesday in February of each year, beginning in 2002.

The Budget Debate

The contents of the budget speech are then debated in the Legislative Assembly for a maximum of six days. The debate centers on the government's financial policies and affords the opposition an opportunity to criticize the government's financial priorities and offer alternatives. A vote in favour of the government at the end of this debate is a vote in favour of the government's financial policies and is considered a vote of confidence in the government. If a government loses a confidence vote, they are said to have lost the confidence of the Legislative Assembly and must resign.

The Estimates Debate

The next step is the estimates debate, which takes place in the Committee of Supply. All MLAs are members of the Committee of Supply. Like the Committee of the Whole House, it meets in the Chamber, with the Deputy Speaker as chair of this committee presiding over the debate. The Speaker is not in the Chamber during committee proceedings.

As well, the Committee of Supply is enabled by Standing Order to sit in more than one location simultaneously. The Committee of Supply may split into two sections to debate the estimates. Committee of Supply "Section A" meets in a nearby committee room while Committee of Supply "Section B" meets in the Chamber.

With the minister responsible present to answer questions, the committee debates how much money should be allotted to a ministry for its annual operations. Members of the government and opposition parties have an opportunity to ask questions about ministry plans and use of the budget allotment. It is a free-flowing question-and-answer series of meetings that can last for many days. Ministers may be accompanied by senior ministry advisers.

When there are no further questions, a vote will take place in committee on whether that ministry's budget should be approved. Once the committee has reported to the House on approval of each ministry's budget, the Minister of Finance moves that the House agree to the necessary financial resolutions of each ministry as passed by the Committee of Supply. Next, the Legislative Assembly passes a government bill called the supply bill. The supply bill reflects the total of the amounts contained in the financial resolutions adopted earlier by the Legislative Assembly and previously adopted by the Committee of Supply.

Scrutinize the Government

An important function of the Legislative Assembly is to scrutinize the policies and actions of the executive branch of government and to hold cabinet ministers accountable. The Legislative Assembly fulfils its scrutiny role through a variety of means, including Question Period, the committee system, written questions on notice, Committee of the Whole consideration of bills, Committee of Supply consideration of the Estimates, Motions on Notice, proposed Amendments on Notice, Petitions, Public Bills in the Hands of Private Members, Debate and the tabling of documents.

Question Period

Every Monday to Thursday, beginning just after 2:00 p.m., MLAs participate in Question Period, an intense 15-minute period of rapid-fire questions and answers.

The purpose of Question Period — which is open to the media and the public, like all Legislative Assembly activities — is to make sure the people of B.C. know what their government is doing and why it is doing it.

All MLAs have the right to ask for information from the Cabinet and the right to hold cabinet ministers responsible for their actions. It's one way that MLAs hold government accountable. Any MLA can ask cabinet ministers questions about their ministry's plans and activities and the benefits of those activities for British Columbia.

At the same time, the questions give cabinet ministers the opportunity to clarify or explain their actions to the public.

The first recorded parliamentary question was asked in the British House of Lords in 1721, when the government of the day was asked to confirm the rumour that the chief cashier of the government-owned South Sea Company had fled the country and been arrested in Brussels.

The Prime Minister confirmed the arrest, and the Lords moved to ask the King to order the culprit's return to England.

How Question Period Works

Question Period is considered by many to be the highlight of the day in the Legislative Assembly (also known as the House). It's a time when MLAs can raise the political concerns of the day and make their views known to the public.

Although Question Period can be loud and sometimes chaotic, with MLAs often becoming passionate and heated about particular issues, there are certain rules and procedures that must be followed.

Asking a Question

Under the Standing Orders MLAs can only ask questions that are urgent and important and must ask or answer questions briefly and precisely. They cannot use the time to present their own opinions or begin a back-and-forth argument.

MLAs must direct their questions through the Speaker to the minister officially responsible for the subject (e.g., hospitals, roads or education) and must adhere to certain guidelines.

They must not ask questions about proposed new laws or government funding requests, because these are handled through regular debates. They must not refer to matters currently before a court or waiting to go to court, because judges and juries need to remain impartial, and a public discussion could influence their decisions.

It is up to the Speaker to make sure that Question Period runs smoothly. He or she decides the order in which MLAs will ask their questions and how long a member can take to ask or answer a question. If a question or answer goes on too long, the Speaker will bring the member to order.

The Speaker has the authority to decide if a question is out of order (not related to the activities of government, for example, or containing unparliamentary language) and might ask to have it rephrased or might simply move on to the next question. The Speaker also determines if the MLA who asked the question should be allowed to ask a supplementary (follow-up) question for further clarification or information.

If the Speaker allows a supplementary question, the MLA must pose it right after the cabinet minister's response, not later in Question Period.

As well, in accordance with recent guidelines, a member of the public officially representing a public body can submit a written question to the Speaker directed to a minister or the Premier. The question, if deemed in order, will be published in the Orders of the Day and may be asked by an MLA during Question Period.

Providing an Answer

Cabinet ministers do not know in advance what questions they will be asked during Question Period.

When a cabinet minister is asked a question, he or she may answer the question; take the question "on notice," which means answer it at a later date, when he or she has the facts and figures; allow another member of the Cabinet or the Premier to answer in his or her place; or choose not to respond.

Written Questions

If a question requires a long, detailed or highly technical answer from the government, the MLA must ask it as a written question rather than an oral question.

Written questions are printed in the Orders of the Day, the Legislative Assembly's daily agenda, also known as the order paper.

A written question will stay on the Orders of the Day until the cabinet minister responds or the legislative session ends. If the question has not been answered before the legislative session ends, then the MLA can resubmit the question at the start of the new session.

Committee System

As with other parliaments, the Legislative Assembly has taken advantage of the smaller size and therefore greater flexibility of committees to perform certain functions. These include the questioning of witnesses and the detailed consideration of financial and technical matters. Committee work provides detailed information to members on issues of concern and may provoke important public debate.

The committee system provides for greater accountability of the executive branch of government to the Legislative Assembly by enabling Members of the Legislative Assembly to scrutinize government activity. In particular, the "public scrutiny committees," such as the Select Standing Committee on Public Accounts and the Select Standing Committee on Crown Corporations, provide the Legislative Assembly with a greater opportunity to scrutinize the actions of the public service and cabinet ministers. In the course of this work, members may review government policies and activities and summon cabinet ministers and other government officials to appear before the committee to explain administrative decisions.

The committee system encourages the policy and administrative functions of government to be open and accountable, gives the public more access to parliamentary processes and ensures that Members of the Legislative Assembly have more involvement in and oversight of decision making. Committees also provide a forum for investigation of matters of public importance and give members the opportunity to enhance their knowledge of such issues. At the same time, committees enhance the democratic process by encouraging the public to contribute directly to the work of the Legislative Assembly.

Other Opportunities to Scrutinize the Government

Written Questions on Notice

Questions which otherwise would be too lengthy to ask or respond to orally are printed as written questions on notice in the Votes and Proceedings. After two days, the written questions are printed in the Orders of the Day as notice before the minister's written response.

Committee of the Whole – consideration of bills

All MLAs, as members of the Committee of the Whole, have an opportunity to ask questions of the government on proposed legislation introduced by the government. For more information, see How Bills Are Passed.

Committee of Supply – consideration of the Estimates

All MLAs, as members of the Committee of Supply, have an opportunity to ask the government questions about proposed spending expenditures for the fiscal year under consideration. For more information, see Approving Finances.

Motions on Notice

Members may place motions on notice in the Votes and Proceedings. After two days, the motions on notice are printed in the Orders of the Day. These may be called for debate at future sittings, thereby affording MLAs the opportunity to scrutinize the government.

Proposed Amendments on Notice

Members may place amendments on notice in the Votes and Proceedings and, after two days, the amendments on notice are printed in the Orders of the Day. The amendments on notice advise the Legislative Assembly that an MLA is proposing amendments to bills or to government motions.

Petitions

Members may present petitions to the House on behalf of the public in order to seek redress on particular issues relating to government policies or actions.

Public Bills in the Hands of Private Members

An MLA, on his or her initiative, may introduce bills relating to matters of interest to the general public. These bills may be adopted by the House or motivate government to react to the issue raised.

Debate

The Speech from the Throne debate, the budget debate and debates on government legislation and government motions all provide additional opportunities for MLAs to identify issues with respect to government activity.

Tabling of Documents

The Legislative Assembly obtains and publicizes information about the government's performance and future plans. Most government ministries and agencies are required by law to present their annual reports and performance plans to the Legislative Assembly. On the basis of this information, the Members of the Legislative Assembly and others are better informed about activities of government and may form a judgment as to whether the government is discharging its mandate effectively and economically.

LEGISLATIVE PROCEEDINGS

HOW A PARLIAMENT WORKS

The first order of business in any new parliament is the election of the Speaker. He or she is an MLA elected by secret ballot to oversee debates and make sure the House follows established rules of behaviour and procedure. All MLAs are permitted to vote, and all MLAs except the Premier and cabinet ministers are eligible to run for election. This process is presided over by the Clerk of the House.

The election of the Speaker isn't necessarily part of every session. The Speaker continues in office for the remainder of the parliament until the first sitting day after each general election or when he or she resigns, retires or dies.

After each general election a new "parliament" is created. That parliament will exist until the next general election is held. With fixed election dates under the *Constitution Act,* R.S.B.C. 1996, c. 66, each parliament will last four years, unless that time is cut short by a vote of non-confidence against the government or is extended by an emergency.

Each parliament is composed of a number of legislative sessions, always opened and closed by the Lieutenant-Governor. That's why, for example, when you look at Hansard (the full report of the debates in the House), you'll see headings such as 37th Parliament, 3rd Session.

Pursuant to the federal *Constitution Act, 1982*, and the provincial *Constitution Act,* R.S.B.C. 1996, c. 66, the Legislative Assembly must hold a new legislative session at least once per year. Each session is marked by its own throne speech and, typically, a budget speech as well as legislation to debate and approve. Here are some of the highlights.

Opening a New Session

Historically, the opening of each session has been at the discretion of the government. Written by the government, the Speech from the Throne is read by the Lieutenant-Governor on the first day of every new legislative session. The throne speech states officially the "causes of summoning parliament" — why parliament is being assembled in session. It also sets forth in some detail the government's view of the condition of the province and provides an indication of what legislation it intends to bring forward. It outlines the government's plans and priorities for the coming session.

Throne Speech and Debate

The throne speech debate is also known as the Address in Reply to the Speech from the Throne. This debate is initiated by a government motion "to offer humble thanks…for the gracious speech...." A wide-ranging debate ensues for up to six days, covering government priorities and plans. After debate has concluded, there is a vote of all MLAs to support or defeat the motion supporting the throne speech. This vote expresses the Legislative Assembly's support for the government. It is known as a vote of confidence in the government. If a government loses a confidence vote, they are said to have lost the confidence of the Legislative Assembly and must resign.

Introduction of the Budget

The Minister of Finance reads the budget speech to the Legislative Assembly. (It's one of the few speeches in the House that can be read verbatim. Usually MLAs can only speak from notes.) The *Budget Transparency and Accountability Act*, S.B.C. 2001, c. 23, fixed the date of this speech at the third Tuesday in February each year, beginning in 2002. By tradition, a vote on the motion arising out of the budget speech is treated as a confidence matter.

The budget speech outlines the government's general spending for the fiscal year, April 1 to March 31. With the speech comes a very detailed set of anticipated revenues and program expenditures for each ministry.

Introduction of Bills

Throughout each session, new legislation is debated through a series of "readings" before finally being voted on and, if approved, given Royal Assent by the Lieutenant-Governor. It should be noted that all MLAs, including those in opposition parties, may introduce legislation, though it is rare that these bills are called for debate beyond first reading.

Debate on government bills can last any length of time, but passing them before the end of each session is crucial. If that cannot be done, then the bill will "die on the order paper," meaning it will have to be reintroduced in the next session and go through the legislative readings all over again.

The House Prorogues

During each legislative session, breaks (or "recesses") of a number of weeks or even months can occur. When the House resumes sitting, the formalities of a new session (e.g., throne speech and budget speech) are not required. It's just as though there had been no recess at all.

The House is "prorogued" when the Lieutenant-Governor attends to officially close the legislative session. At that time, all outstanding legislative proceedings, including committee work and business such as bills or motions, are terminated and cannot be debated further unless reintroduced in the next session.

A Day in the House

This is a description of the events during a typical day in the Legislative Assembly. All proceedings are open to the public and are televised.

Routine Business

The daily business of the House, known as routine business, follows a set pattern every day.

Prayer

Prayers are interdenominational and are delivered by members, the Speaker or a visiting clergy.

Introduction of Bills and First Readings

Public bills sponsored either by the government or a private member are introduced and read a first time, including a succinct explanation on the subject matter of the bill.

Two-Minute Statements

Up to three private members may make two-minute statements prior to Question Period on a topic of their choice.

Oral Question Period

A 15-minute period is held at the beginning of each afternoon sitting, Monday through Thursday, when members may pose questions to the Cabinet.

Presenting Petitions

A fundamental concept of parliamentary democracy is the right of the public to access parliament by way of a petition presented by a member for the redress of an alleged public grievance.

Presenting Reports by Committees

Committees submit reports to the House outlining their activities, decisions and recommendations on matters related to the terms of reference (directions) they originally received from the House.

Motions on Notice – Private Members

Motions on notice are printed in the Votes and Proceedings and, after two days, are printed in the Orders of the Day as notice. The motions on notice allow members to familiarize themselves with the motion before it is called for debate.

Written Questions on Notice

Questions which otherwise would be too lengthy to ask or respond to orally are printed in the Votes and Proceedings and, after two days, are printed in the Orders of the Day as notice for the minister's written response.

Private Members' Time

Every Monday morning from 10 a.m. to 12 noon, the House proceeds to Private Members' Time to consider the following items:

- Private Members Statements

- Public Bills in the Hands of Private Members
- Private Members' Motions
- Private Bills
- Throne Speech Debate
- Budget Debate including Committee of Supply
- Public Bills and Orders and Government Motions on Notice

Orders of the Day

Immediately after routine business, the House comes to the main business of the day. The government, through its designated Government House Leader, may call for debate any of the following items appearing on the Orders of the Day.

- Throne Speech Debate
- Budget Debate, including Committee of Supply
- Public Bills:
    - Second Readings
    - Committee Stage of Bills
    - Report Stage of Bills
    - Third Readings of Bills
- Adjourned Debates on Motions (Government)
- Motions on Notice (Government – cabinet ministers only)
- Public Bills in the Hands of Private Members
- Private Bills

Most of these items are government business. The government determines what items will be called for debate and in what sequence they will be considered. The government may determine that only some items will actually be debated and that the rest will be deferred. If deferred items are not considered before the session ends, they "die on the order paper," which means that they must be reintroduced during another session.

Adjournment

All business not concluded at the time of daily adjournment stands over to the next sitting.

HOUSE DOCUMENTS

PARLIAMENTARY PUBLICATIONS

Orders of the Day

Orders of the Day, also known as the order paper, is the official agenda of the House. Published by the office of the Clerk for each sitting day, the Orders of the Day provides a comprehensive overview of the status of business before the Legislative Assembly. Its listings include the status of legislation, debates, motions and resolutions, as well as written questions directed to ministers. The government House Leader has the prerogative, usually in consultation with the Opposition, to decide on the business of the day.

Votes and Proceedings

Just as Hansard is a full report of what was said by each MLA, Votes and Proceedings can best be described as the official summary record of the decisions and activities undertaken each day in the House. A listing of all bills introduced, documents tabled, motions introduced, decisions made and the results of any votes in the House are recorded in the Votes and Proceedings. It also outlines the status of all legislation introduced in the session.

While printed daily, Votes and Proceedings is also available on the Legislative Assembly website at www.legis.gov.bc.ca/.

Bills

Bills are distributed to all members once they are introduced in the House. Sequential numbering of bills restarts at the beginning of each new session.

Public bills are numbered from 1 to 200 and are introduced by a minister. Public bills in the hands of private members are numbered from M201 to M400 and are introduced by an opposition MLA or government backbencher. Private bills are numbered from Pr401 on. They are introduced to the House under the sponsorship of an MLA.

Copies of bills under consideration by the House are available on the Legislative Assembly website at www.legis.gov.bc.ca/.

Hansard

Hansard is the official report of debates in the British Columbia Legislative Assembly. Although Hansard was produced in Ottawa in 1880 and earlier in the United Kingdom, it was not introduced into B.C. until 1970. At the time, it recorded the debates in the House but not in the committee meetings, including the Committee of the Whole House and the Committee of Supply. In addition, it was only made available after the session was prorogued.

In 1972 Hansard began full-text reporting and included coverage of the committees. In the spring session of 1991 it began live and complete television coverage of debates. Hansard was first made available on the Internet in 1994. All broadcasts are videotaped and are stored at the Provincial Archives.

Hansard is a full transcript of everything said in the House and in committee meetings. Repetitions and obvious mistakes are edited out to make it easier reading.

A preliminary draft transcript, called the "Blues", is also produced, primarily for members' use. Both the Blues and the final version of Hansard are available on the Internet at www.legis.gov.bc.ca/hansard/debates.htm.

COMMITTEES OF THE HOUSE

TYPES

The committee system in British Columbia descended from this tradition. Committees change their fields of interest, and their level of activity and influence has varied considerably over time.

The ability of committees to deal with concerns of the day is one of their strengths. They are also valued for their less formal rules of debate and their ability to summon witnesses and to form subcommittees if needed.

All MLAs are members of the Committee of the Whole House and also the Committee of Supply, whereas small groups of MLAs are appointed and authorized by the Legislative Assembly to sit on Select Standing Committees and Special Committees to investigate and report on specific issues of importance to British Columbians.

Committee of the Whole House

In the Committee of the Whole House, MLAs study each section of each proposed bill. They may ask the bill's sponsor detailed questions about each section's meaning and purpose and may decide to amend the bill in some areas. Depending on the bill, the committee stage may last from a few hours to several days or weeks. When the committee has finished its debate and proposed amendments, if any, the members will vote to "report" the bill back to the House. Once this happens, no further changes can be made to the bill unless the House votes to send the bill back to the committee for a second review. This is very rare.

Furthermore, the Committee of the Whole House may occasionally split into sections "A" and "B" to consider bills.

Committee of Supply

In Committee of Supply members examine and approve government spending proposals, known as estimates. Occasionally the Committee of Supply splits into two sections to debate estimates. One group remains in the Chamber, "Section B," while the other, referred to as Committee of Supply "Section A," continues the debate in a nearby committee room. Both locations are open to the public.

Select Standing Committees

Select standing (permanent) committees may be authorized by the Legislative Assembly to investigate and report on social and economic issues of importance to British Columbians (e.g., finance, Aboriginal affairs, health, or social services) for the duration of a session.

Special Committees

Occasionally the Legislative Assembly also sets up what are called "special" committees to look closely at a single specific issue. A special committee ceases to exist after it has completed its investigation and presented its final report to the House.

PURPOSE OF SELECT STANDING AND SPECIAL COMMITTEES

Committees allow MLAs an opportunity to look closely at a particular issue (e.g., Aboriginal affairs or health) and explore it in depth. Committees can also examine the activities of government ministries and keep the government and the public service accountable to the people of British Columbia.

In committees MLAs can consult with experts and review documents and papers. They can also collect the views of community, professional, business, academic and other groups, as well as the general public, providing the public with the opportunity for direct involvement in the workings of the Legislative Assembly.

Although there may be opportunities for the public to address a select standing or special committee, they cannot address the House or the Committee of the Whole House.

Legislative committees are also involved in interviewing and recommending candidates to fill positions as statutory officers of the Legislature. These positions, which operate impartially and independent of government, report directly to the Legislative Assembly. They are the Auditor General; the Chief Electoral Officer; the Conflict of Interest Commissioner; the Information and Privacy Commissioner; the Ombudsman; and the Police Complaint Commissioner.

WHO'S INVOLVED IN SELECT STANDING AND SPECIAL COMMITTEES?

Committees are made up of MLAs from government, opposition and, on occasion, independent members. They generally do not include either the Premier or cabinet ministers. Most have between ten and 12 members.

MLAs who have an interest in the work of a particular committee but have not been appointed to that committee may attend meetings as observers and may participate in debates, but they cannot vote.

A Clerk who is non-partisan and independent serves the committees. The Clerk to the Committee is the procedural adviser to the Chair and all members of the committee and also acts as its administrative officer, very much as the Clerk of the House serves the Speaker and the Members of the Legislative Assembly. The Clerk also acts as the committee's liaison with the public, the media and other services of the Legislative Assembly.

COMMITTEE REPORTS

After fulfilling their mandate from the Legislative Assembly to examine a particular issue, legislative committees must prepare a report for the House. Once the report has been presented to the House, it becomes a public document. If the House is not in session when a committee report is ready to be released, a copy can be deposited with the Office of the Clerk, which has the effect of making the report a public document. The Chair of the committee will then present the report to the House at the next available opportunity.